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EXAMINER

CHAMBERS, TROY

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/713,127
Filing Date: November 14, 2003
Appellant(s): STRIA, RONALD M.

MAILED

JUN 22 2007

GROUP 3600

Walter J. Tencza Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/24/2006 appealing from the Office action mailed 07/25/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 9, 10, 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 21-24 are allowed.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2, 717, 533	Wells	6-1951
20060123684	Bunney	6-2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 4-10, 13-16, 21-24, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2717533 issued to Wells.

3. Wells discloses a magazine 3; receptacles 42; a top plate 30; having a plurality of conductive discs 54 (the conductive discs 54 are not disclosed as being "conductive rubber", however applicant's use of the transitional term "comprising" operates to open up claim 10 to materials other than "conductive rubber"); a center conductive disc pad (unnumbered, flat support for element 51 shown only in Fig. 6 being supported by spring 53); electrical insulation (unnumbered disc area between element 51 and ring 54 as shown in Figs. 4-6); an electronic housing 1; conductive transfer posts 51; an interface circuit board 31; bridge spring 53; a plurality of interlocks (magazine flanges 43 which are used to lock plurality of individual magazines to the underside surface 31); a latching device 7, 8, 9, 10, 21, etc.

Claims 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by US 20060123684 issued to Bunney. Bunney discloses a magazine 50 with a plurality of receptacles 54, each receptacle having at least three sections of increasing diameter (Fig. 4: first diameter at 60, second diameter at location of element 62 and third diameter at location of element 64).

(10) Response to Argument

4. With respect to claim 4, applicant argues that Wells does not disclose blank ammunition rounds. However, Wells does not have to disclose blank ammunition

rounds because its not required by the claim 4. Only positively recited limitations are given patentable weight, not limitations directed towards intended use or desired results.

5. With respect to claims 5 and 6, applicant provides an argument directed to the "blank round" limitation. Again, blank rounds are not required in either claim 4 or claim 5.

6. With respect to claim 7, applicant argues that, in addition to its dependency on claim 6, claim 7 is allowable because Wells does not disclose the six-amp limitation as well as the five hundred-millisecond time limits. However, these limitations are directed more to desired results rather than functional language that describe how previously recited elements work together. Desired results are not patentable. Moreover, claim 7 depends from claim 6. If all the structural elements of claim 6 and 7 are anticipated by Wells then so are any functional limitations that flow therefrom.

7. With respect to claim 8, contact 51 runs in a direction from the top plate to housing 1.

8. With respect to claim 13, Wells discloses circuitry as shown in at least Fig. 6. Applicant's claims do not require any specific type of circuitry or any specific type of testing. Moreover, the applicant does not provide any arguments describing why the claimed circuitry is different than that of Wells such that the claimed circuitry is capable of self-testing while the circuitry of the prior art is not.

9. With respect to claim 14, Wells discloses circuitry. The applicant does not provide any reasons why the circuitry of Wells cannot be hooked up to a device that

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allows for programmable firing. Claim 14 merely requires the capability for programming and Wells meets that limitation.

10. With respect to claims 15 and 16, Wells is capable of a special ignition application. A "special ignition application" is not a structural limitation nor is it expressly defined in the specification so that the Wells reference is excluded.

11. With respect to claim 7, it is again noted that "rounds" are not positively recited and therefore are not limiting.

12. With respect to claims 11 and 12, applicant argues that Bunney does not specify blank ammunition or two different types of ammunition. Again, applicant has not positively recited these elements in the claim so the examiner is not required to find them in the prior art. Also, it is clear from Fig. 3 that, regardless of the reference numbers used by the examiner, there is clearly shown a bore in which at least 3 different diameters are disclosed (the bore has a straight section at 54, an angled section at 58", a straight section at 62 and another angled section at 58').

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Troy Chambers

Conferees:

Michael Carone

Meredith Petravich